

## Article - Natural Resources

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§5–1601.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Afforestation” means the establishment of a tree cover on an area from which it has always or very long been absent, or the planting of open areas which are not presently in forest cover.
- (c) “Agricultural activity” means farming activities including plowing, tillage, cropping, installation of best management practices, seeding, cultivating, and harvesting for production of food and fiber products (except commercial logging and timber harvesting operations), the grazing and raising of livestock, aquaculture, sod production, orchards, nursery, and other products cultivated as part of a recognized commercial enterprise.
- (d) “Agricultural and resource areas” are undeveloped areas zoned for densities of less than or equal to 1 dwelling unit per 5 acres.
- (e) “Champion Tree” means the largest tree of its species within the United States, the State, county, or municipality, as appropriate.
- (f) “Commercial and industrial uses” includes manufacturing operations, office complexes, shopping centers, and other similar uses and their associated storage areas, yarding, and parking areas.
- (g) “Commercial logging or timber harvesting operations” means the cutting and removing of tree stems from a site for commercial purposes, leaving the root mass intact.
- (h) “Critical habitat area” means a critical habitat for endangered species and its surrounding protection area. A critical habitat area shall:
  - (1) Be likely to contribute to the long–term survival of the species;
  - (2) Be likely to be occupied by the species for the foreseeable future;and
  - (3) Constitute habitat of the species which is deemed critical under § 4–2A–06 or § 10–2A–06 of this article.

(i) “Critical habitat for endangered species” means a habitat occupied by an endangered species as determined or listed under § 4–2A–04 or § 10–2A–04 of this article.

(j) “Department” means the Department of Natural Resources.

(k) (1) “Forest” means a biological community dominated by trees and other woody plants covering a land area of 10,000 square feet or greater.

(2) “Forest” includes:

(i) Areas that have at least 100 trees per acre with at least 50% of those trees having a 2 inch or greater diameter at 4.5 feet above the ground and larger; and

(ii) Forest areas that have been cut but not cleared.

(3) “Forest” does not include orchards.

(l) “Forest conservation” means the retention of existing forest or the creation of new forest at the levels prescribed by the State or local authority.

(m) “Forest conservation plan” means a plan approved pursuant to §§ 5–1605 and 5–1606 of this subtitle.

(n) “Forest cover” means the area of a site meeting the definition of forest.

(o) “Forest mitigation banking” means the intentional restoration or creation of forests undertaken expressly for the purpose of providing credits for afforestation or reforestation requirements with enhanced environmental benefits from future activities.

(p) “Forest stand delineation” means the methodology for evaluating the existing vegetation on a site proposed for development, taking into account the environmental elements that shape or influence the structure or makeup of a plant community.

(q) “Forested slopes” means an area meeting the definition of forest and growing on an area with a slope of 25 percent or more and covering an area of at least 10,000 square feet.

(r) “High density residential areas” means areas zoned for densities greater than 1 dwelling unit per acre, including both existing and planned development and their associated infrastructure, such as roads, utilities, and water and sewer service.

(s) “Institutional development area” includes schools, colleges and universities, military installations, transportation facilities, utility and sewer projects, government offices and facilities, golf courses, recreation areas, parks, and cemeteries.

(t) “Intermittent stream” means a stream in which surface water is absent during a portion of the year as shown on the most recent 7.5 minute topographic quadrangle published by the United States Geological Survey as confirmed by field verification.

(u) “Linear project” means a project whose configuration is elongated with nearly parallel sides and used to transport a utility product or public service not otherwise contained in an application for subdivision, such as electricity, gas, water, sewer, communications, trains, and vehicles. Linear projects may traverse fee simple properties through defined boundaries or through easement rights.

(v) “Local forest conservation program” means a program developed and implemented pursuant to § 5–1603 of this subtitle.

(w) “Medium density residential areas” means areas zoned for densities greater than 1 dwelling unit per 5 acres and less than or equal to 1 dwelling unit per acre, including both existing and planned development and their associated infrastructure, such as roads, utilities, and water and sewer service.

(x) “Mixed use development” means a single, relatively high density development project, usually commercial in nature, which includes 2 or more types of uses.

(y) “Natural regeneration” means the natural establishment of trees and other vegetation with at least 400 woody, free-to-grow seedlings per acre, which are capable of reaching a height of at least 20 feet at maturity.

(z) “Net tract area” means:

(1) Except in agriculture and resource areas or linear project areas, the total area of a site, including both forested and nonforested areas, to the nearest one-tenth acre reduced by that area where forest clearing is restricted by another local ordinance or program;

(2) In agriculture and resource areas, the portion of the total tract for which land use will be changed or will no longer be used for primarily agricultural activities reduced by that area where forest clearing is restricted by another local ordinance or program; and

(3) For a linear project:

(i) The area of a right-of-way width, new access roads and storage; or

(ii) The limits of disturbance as shown on an application for sediment and erosion control approval or in a capital improvements program project description.

(aa) (1) “Nontidal wetland” means an area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

(2) The determination of whether an area is considered a nontidal wetland shall be made in accordance with the publication known as the “Federal Manual for Identifying and Delineating Jurisdictional Wetlands”, published in 1989 and as may be amended and interpreted by the U.S. Environmental Protection Agency.

(3) “Nontidal wetland” does not include a tidal wetland regulated under Title 16 of the Environment Article.

(bb) (1) “One hundred year floodplain” means an area along or adjacent to a stream or body of water, except tidal waters, that is capable of storing or conveying floodwaters during a 100-year frequency storm event.

(2) A 100-year flood is a flood which has a 1% chance of being equaled or exceeded in any given year. Except for Class III waters (natural trout streams), a body of water with a watershed less than 400 acres is excluded.

(cc) “Perennial stream” means a stream containing surface water throughout an average rainfall year, as shown on the most recent 7.5 minute topographic quadrangle published by the United States Geological Survey, as confirmed by field verification.

(dd) “Person” includes the federal government, the State, any county, municipal corporation, or other political subdivision of the State, or any of their units, or an individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation, or any of their affiliates, or any other entity.

(ee) “Planned unit development” means a development comprised of a combination of land uses or varying intensities of the same land use in accordance with an integrated plan that provides flexibility in land use design approved by the local jurisdiction with at least 20% of the land permanently dedicated to open space.

(ff) “Priority funding area” means an area designated as a priority funding area under § 5–7B–02 of the State Finance and Procurement Article.

(gg) (1) “Reforestation” or “reforested” means the creation of a biological community dominated by trees and other woody plants containing at least 100 trees per acre with at least 50% of those trees having the potential of attaining a 2 inch or greater diameter measured at 4.5 feet above the ground, within 7 years.

(2) “Reforestation” includes landscaping of areas under an approved landscaping plan that establishes a forest that is at least 35 feet wide and covering 2,500 square feet of area.

(3) “Reforestation” for a linear project which involves overhead transmission lines may consist of a biological community dominated by trees and woody shrubs with no minimum height or diameter criteria.

(hh) “Retention” means the deliberate holding and protecting of existing trees, shrubs or plants on the site according to established standards.

(ii) “Seedlings” means an unbranched woody plant, less than 24 inches in height and having a diameter of less than 1/2 inch caliper measured at 2 inches above the root collar.

(jj) “Selective clearing” means the careful and planned removal of trees, shrubs, and plants using specific standards and protection measures under an approved forest conservation plan.

(kk) “Stream buffer” means all lands lying within 50 feet, measured from the top of each normal bank of any perennial or intermittent stream.

(ll) “Stream restoration project” means an activity that:

(1) Is designed to stabilize stream banks or enhance stream function or habitat located within an existing stream, waterway, or floodplain;

(2) Avoids and minimizes impacts to forests and provides for replanting on-site an equivalent number of trees to the number removed by the project;

(3) May be performed under a municipal separate storm sewer system permit, a watershed implementation plan growth offset, or another plan administered by the State or local government to achieve or maintain water quality standards; and

(4) Is not performed to satisfy stormwater management, wetlands mitigation, or any other regulatory requirement associated with proposed development activity.

(mm) “Subdivision” means any division of a parcel of land into 2 or more lots or parcels for the purpose, whether immediate or future, of transfer of ownership, sale, lease, or development.

(nn) (1) Except as provided in paragraph (2) of this subsection, “tract” means property subject to an application for a grading or sediment control permit or subdivision approval.

(2) If property is included in a planned unit development, “tract” means the entire property subject to the planned unit development.

(oo) “Tree” means a large, woody plant having 1 or several self-supporting stems or trunks and numerous branches that reach a height of at least 20 feet at maturity.

(pp) “Whip” means an unbranched woody plant greater than 24 inches in height and having a diameter of less than 1 inch caliper measured at 2 inches above the root collar.

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